

Senate Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 143

SENATE BILL 1132

AN ACT

AMENDING SECTIONS 31-401 AND 31-402, ARIZONA REVISED STATUTES; RELATING TO
THE BOARD OF EXECUTIVE CLEMENCY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 31-401, Arizona Revised Statutes, is amended to
3 read:

4 31-401. Board of executive clemency; qualifications;
5 appointment; officers; quorum; meeting

6 A. The board of executive clemency is established consisting of five
7 members who are appointed by the governor pursuant to this subsection and
8 section 38-211.

9 B. The members of the board shall ~~be compensated on an hourly~~ SERVE ON
10 A FULL-TIME basis and ~~are not eligible for paid leave~~ RECEIVE COMPENSATION AS
11 DETERMINED PURSUANT TO SECTION 38-611, SUBSECTION A. Beginning from and
12 after December 31, 2013, members of the board are eligible for any benefits
13 that are provided to state employees pursuant to section 38-651. ~~A member~~
14 ~~who is acting as the executive director shall be compensated pursuant to~~
15 ~~subsection K of this section.~~ Each member shall be appointed on the basis of
16 broad professional or educational qualifications and experience and shall
17 have demonstrated an interest in the state's correctional program. No more
18 than two members from the same professional discipline shall be members of
19 the board at the same time.

20 C. Each member appointed to the board shall complete a ~~four-week~~
21 FOUR-WEEK course relating to the duties and activities of the board. The
22 course shall be designed and administered by the chairman of the board and
23 shall be conducted by the office of the board of executive clemency and the
24 office of the attorney general. The course shall include training in all
25 statutes that pertain to the board and participation in a decision making
26 workshop.

27 D. Members shall be appointed for a term of five years to expire on
28 the third Monday in January of the appropriate year.

29 E. A member of the board may be removed by the governor for cause.

30 F. The governor shall select a member of the board as chairman. The
31 chairman shall select other officers as are advisable. The term of the
32 chairman is two years, except that the chairman may be removed as chairman at
33 the pleasure of the governor. If a board member's term expires while the
34 member is serving as chairman, the chair shall be deemed vacant and a new
35 chairman shall be selected.

36 G. The board may adopt rules, not inconsistent with law, as it deems
37 proper for the conduct of its business. The board may from time to time
38 amend or change the rules and publish and distribute the rules as provided by
39 the administrative procedures act.

40 H. The board shall meet at least once a month at the state prison and
41 at other times or places as the board deems necessary.

42 I. The presence of three members of the board constitutes a quorum,
43 except that the chairman may designate that the presence of two members of
44 the board constitutes a quorum.

J. If two members of the board constitute a quorum pursuant to subsection I of this section and the two members do not concur on the action under consideration, the chairman of the board, if the chairman is not one of the members who constituted the quorum and after reviewing the information considered by the two members, shall cast the deciding vote. If the chairman of the board is one of the two members constituting a quorum at a hearing under subsection I of this section, and there is not concurrence on the action under consideration, the action fails.

K. The board shall employ an executive director whose compensation shall be determined pursuant to section 38-611. ~~The chairman of the board may act as the executive director.~~ THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD AND REPORTS TO THE BOARD THROUGH THE CHAIRMAN OF THE BOARD.

Sec. 2. Section 31-402, Arizona Revised Statutes, is amended to read:

31-402. Powers of board; powers and duties of governor; powers and duties of executive director

A. For all persons who committed felony offenses before January 1, 1994, the board of executive clemency shall have exclusive power to pass upon and recommend reprieves, commutations, paroles and pardons. No reprieve, commutation or pardon may be granted by the governor unless it has first been recommended by the board.

B. For all persons who committed felony offenses before January 1, 1994, all applications for reprieves, commutations and pardons made to the governor shall be at once transmitted to the chairman of the board, and the board shall return the applications with its recommendation to the governor. All applications for reprieves, commutations and pardons made to the governor shall include documentation that the victim or the victim's family was notified pursuant to section 31-411, subsection H.

C. For all persons who committed felony offenses on or after January 1, 1994, in addition to the powers and duties prescribed in subsection A of this section, the board of executive clemency:

1. Is vested with the powers and duties of the board of pardons and paroles as they existed before January 1, 1994 to carry out the provisions of articles 3, 4.1, 5, 6 and 7 of this chapter.

2. After a hearing for which the victim, county attorney and presiding judge are given notice and an opportunity to be heard, may make recommendations to the governor for commutation of sentence after finding by clear and convincing evidence that the sentence imposed is clearly excessive given the nature of the offense and the record of the offender and that there is a substantial probability that when released the offender will conform the offender's conduct to the requirements of the law.

3. Shall receive petitions from individuals for whom the court has entered a special order allowing the person to petition the board pursuant to section 13-603, subsection L and may make recommendations to the governor.

1 4. Shall receive petitions from individuals, organizations or the
2 department for review and commutation of sentences and pardoning of offenders
3 in extraordinary cases and may make recommendations to the governor.

4 5. Shall receive petitions from the state department of corrections
5 alleging that an offender has violated the offender's terms and conditions of
6 community supervision and has lapsed or is probably about to lapse into
7 criminal ways or company. If the board determines that an offender on
8 community supervision has violated the terms and conditions of community
9 supervision the board may do any of the following:

10 (a) If the offender has not committed an additional offense, place the
11 offender on electronic monitoring and order the offender to participate in a
12 community accountability program pursuant to section 41-1609.05.

13 (b) Revoke community supervision and return the offender to prison for
14 the remainder of the offender's community supervision.

15 (c) Impose additional terms and conditions on the offender while
16 keeping the offender on community supervision. If there is reasonable cause
17 to believe that an offender who has been kept on community supervision has
18 violated any term or condition of community supervision, any member of the
19 board may petition the board to revoke community supervision. After a
20 petition to revoke has been submitted, the chairman may issue a summons
21 directing the offender to appear on a specified date for a revocation hearing
22 or may issue a warrant for the offender's arrest. Nothing in this subsection
23 limits the state department of corrections' authority with respect to
24 submitting revocation petitions or issuing revocation warrants.

25 D. Any recommendation for commutation that is made unanimously by the
26 members present and voting and that is not acted on by the governor within
27 ninety days after the board submits its recommendation to the governor
28 automatically becomes effective.

29 E. The executive director shall perform all administrative,
30 operational and financial functions for the board.

31 F. The executive director may employ case analysts as deemed necessary
32 within the limits of legislative appropriation and subject to title 41,
33 chapter 4, article 4. The ~~analyst~~ ANALYSTS shall aid the board in making
34 investigations, in securing information and in performing necessary
35 administrative functions to assist the board in passing ~~upon~~ ON applications
36 for parole and commutation.

37 G. The executive director may employ hearing officers as deemed
38 necessary within the limits of legislative appropriation and subject to title
39 41, chapter 4, article 4. The hearing officers shall conduct probable cause
40 hearings on parole, work furlough, COMMUNITY SUPERVISION and home arrest
41 revocations or rescissions. Hearing officers shall assist the board in making
42 investigations, securing information and performing necessary administrative
43 functions.

APPROVED BY THE GOVERNOR MAY 11, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2016.

Passed the House May 5, 2016,

by the following vote: 54 Ayes,

3 Nays, 3 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate February 24, 2016,

by the following vote: 21 Ayes,

8 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5th day of May, 2016

at 1:48 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 11th day of

May, 2016,

at 10:19 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 11TH day of May, 2016,

at 2:20 o'clock P. M.

[Signature]
Secretary of State

S.B. 1132